

Kennedy (MN) Ose  
King (IA) Otter  
King (NY) Oxley  
Kingston Paul  
Kirk Pearce  
Kline Pence  
Knollenberg Peterson (PA)  
Kolbe Petri  
LaHood Pickering  
Latham Pitts  
LaTourette Platts  
Lewis (CA) Pombo  
Lewis (KY) Porter  
Linder Portman  
LoBiondo Pryce (OH)  
Lucas (OK) Putnam  
Manzullo Quinn  
McCotter Radanovich  
McCrery Ramstad  
McHugh Regula  
McInnis Rehberg  
McKeon Renzi  
Mica Reynolds  
Miller (FL) Rogers (AL)  
Miller (MI) Rogers (KY)  
Miller, Gary Rogers (MI)  
Moran (KS) Rohrabacher  
Murphy Ros-Lehtinen  
Musgrave Royce  
Myrick Ryan (WI)  
Nethercutt Ryan (KS)  
Neugebauer Saxton  
Ney Schrock  
Northup Sensenbrenner  
Norwood Sessions  
Nunes Shadegg  
Nussle Shaw  
Osborne Shays

## NOES—205

Abercrombie Evans  
Ackerman Farr  
Alexander Fattah  
Allen Filner  
Andrews Ford  
Baca Frank (MA)  
Baird Frost  
Baldwin Gephardt  
Ballance Gonzalez  
Becerrra Gordon  
Bell Green (TX)  
Berkley Grijalva  
Berman Gutierrez  
Berry Harman  
Bishop (GA) Hastings (FL)  
Bishop (NY) Hill  
Blumenauer Hinchey  
Boswell Hinojosa  
Boucher Hoeffel  
Boyd Holden  
Brady (PA) Holt  
Brown (OH) Honda  
Brown, Corrine Hooley (OR)  
Capps Hoyer  
Capuano Inslee  
Cardin Israel  
Cardoza Jackson (IL)  
Carson (IN) Jackson-Lee  
Carson (OK) (TX)  
Case Jefferson  
Chandler John  
Clay Johnson (IL)  
Clyburn Johnson, E. B.  
Conyers Jones (OH)  
Cooper Kanjorski  
Costello Kaptur  
Cramer Kennedy (RI)  
Crowley Kildee  
Cummings Kilpatrick  
Davis (AL) Kind  
Davis (CA) Kleczka  
Davis (FL) Kucinich  
Davis (IL) Lampson  
Davis (TN) Langevin  
DeFazio Lantos  
DeGette Larsen (WA)  
Delahunt Larson (CT)  
DeLauro Leach  
Deutsch Lee  
Dicks Levin  
Dingell Lewis (GA)  
Doggett Lipinski  
Dooley (CA) Lofgren  
Doyle Lowey  
Edwards Lucas (KY)  
Emanuel Lynch  
Engel Majette  
Eshoo Maloney  
Etheridge Markey

Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Tancredo  
Taylor (NC)  
Terry  
Thomas  
Thornberry  
Tiahrt  
Tiberi  
Toomey  
Turner (OH)  
Upton  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Weldon (FL)  
Royce  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

Marshall  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Michaud  
Millender-  
Hill McDonald  
Miller (NC)  
Miller, George  
Mollohan  
Moore  
Moran (VA)  
Murtha  
Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Pelosi  
Peterson (MN)  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Rodriguez  
Rothman  
Royal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (GA)  
Scott (VA)  
Serrano  
Sherman  
Skelton

Slaughter  
Smith (WA)  
Snyder  
Solis  
Spratt  
Stark  
Stenholm  
Strickland  
Stupak  
Tanner  
Tauscher

DeMint  
English

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1307

Mr. DEUTSCH changed his vote from “aye” to “no.”

Mr. GILLMOR changed his vote from “no” to “aye.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SENSE OF HOUSE THAT DEPARTMENT OF DEFENSE SHOULD RECTIFY MILITARY POSTAL SYSTEM DEFICIENCIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 608.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. FORBES) that the House suspend the rules and agree to the resolution, H. Res. 608, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 160]

YEAS—421

Abercrombie Blackburn  
Ackerman Blumenauer  
Aderholt Blunt  
Akin Boehmert  
Alexander Boehner  
Allen Bonilla  
Andrews Bonner  
Baca Bono  
Bachus Boozman  
Baird Boswell  
Baker Boucher  
Baldwin Boyd  
Ballance Bradley (NH)  
Ballenger Brady (PA)  
Barrett (SC) Brady (TX)  
Bartlett (MD) Brown (OH)  
Barton (TX) Brown (SC)  
Bass Brown, Corrine  
Beauprez Brown-Waite,  
Beccerra Ginny  
Bell Burgess  
Bereuter Burns  
Berkley Burr  
Berman Burton (IN)  
Berry Buyer  
Biggart Calvert  
Bilirakis Camp  
Bishop (GA) Cannon  
Bishop (NY) Cantor  
Bishop (UT) Capito

Taylor (MS)  
Thompson (CA)  
Thompson (MS)  
Tierney  
Townes  
Turner (TX)  
Udall (CO)  
Udall (NM)  
Van Hollen  
Velázquez  
Visclosky

McNulty  
Reyes

## NOT VOTING—6

Ross  
Tauzin

Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey  
Wu  
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Tiberi	Walden (OR)	Wicker
Tierney	Walsh	Wilson (NM)
Toomey	Wamp	Wilson (SC)
Towns	Waters	Wolf
Turner (OH)	Watson	Woolsey
Turner (TX)	Watt	Wu
Udall (CO)	Waxman	Wynn
Udall (NM)	Weiner	Young (AK)
Upton	Weldon (FL)	Young (FL)
Van Hollen	Weldon (PA)	

## NOT VOTING—12

DeMint	Lipinski	Reyes
Gutierrez	McNulty	Sessions
Issa	Oberstar	Tauzin
Larson (CT)	Regula	Tiahrt

□ 1315

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 160 I was unavoidably detained. Had I been present, I would have voted "yea."

#### PROVIDING FOR DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS

Mr. MCCRERY. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4279) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BONILLA). Pursuant to House Resolution 638, the bill is considered read for amendment.

The text of H.R. 4279 is as follows:

## H.R. 4279

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

“(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

“(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than \$500 of unused health benefits may be—

“(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

“(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

“(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the

term ‘health flexible spending arrangement’ means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

“(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term ‘unused health benefits’ means the excess of—

“(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

“(B) the actual amount of reimbursement for such year under such arrangement.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in part A of House Report 108-484, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Louisiana (Mr. MCCRERY) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4279, a bill that would update flexible spending arrangements, known as FSAs, to allow up to \$500 of unused health benefits to be carried forward to next year's FSA or transferred to a health savings account. Flexible spending arrangements allow employees to set aside money in an employer-established benefit plan that can be used on a tax-free basis to meet their out-of-pocket health care expenses during the year. However, under current law, any money remaining in the FSA at the end of the year must be returned to the employer.

Nearly 37 million private sector employees have access to an FSA. However, only 18 percent of eligible employees take advantage of the pretax health care spending provided by flexible spending arrangements. Many employees cite the fear of forfeiting unused funds as the primary reason why they elect not to participate in an FSA. Those employees who do participate in an FSA often underfund their account rather than risk losing the funds at the end of the year.

Let me expound on that for just a minute because what happens in most flexible spending arrangements is that the employee chooses to take part of his monthly income, set it aside into one of these flexible spending arrangements, and that income that he removes from his paycheck is basically tax-free income, and that is a good thing. The employee likes that. However, it is still his income. And if he is afraid that he will lose some of that income at the end of the year because he has not used it for the specified pur-

pose in the account, then of course that employee is going to be very reluctant to set aside that money.

This use-it-or-lose-it rule does more, though, than discourage widespread participation. It can also lead to perverse incentives such as encouraging people to spend money on health care products and services that they do not necessarily need. In other words, at the end of the year, if there is money left in the account, the employee's incentive is to go out and get an extra pair of sunglasses or whatever it is and spend that money, and that in turn drives up demand, drives up the price of health care for everybody.

H.R. 4279 provides greater flexibility and consumer choice. The bill would allow up to \$500 of unused funds at the end of the year to be carried forward in that flexible spending arrangement for use in the next year, or that employee could begin a new HSA, a health savings account, and put up to \$500 into that health savings account.

I believe this bill will encourage greater participation in flexible spending arrangements and, to a lesser extent, participation in health savings account benefit plans because people will not be afraid of losing their hard-earned money. The Joint Committee on Taxation estimates that approximately 76 percent of current FSA participants will take advantage of the rollover option each year.

Through this legislation, we can expand access to health care for millions of Americans by making it easier for them to save for their health care costs. This bill would also reduce end-of-the-year excess spending and overuse of health care services, allowing FSA participants to benefit from the prudent use of their health care resources.

Mr. Speaker, I should point out that a nearly identical FSA rollover option was approved by the Committee on Ways and Means as part of H.R. 2351 on June 19, 2003. The provision passed this House last year as part of the Medicare Modernization Act.

Reducing health costs and increasing access to health care are worthy goals that every Member of Congress should support. H.R. 4279 takes an important step in that direction; so I encourage my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I stand here in just abject wonder at having 2 hours and 10 minutes to debate this bill over which there is very little controversy, a few dollars here and there; and I was going to ask the gentleman from Louisiana if he might accept a unanimous consent request that we cut the time in half, spend the first hour on this bill and spend the second hour debating whether or not Rumsfeld ordered the torture of prisoners in Iraq, and then we might have some more fun at least in the 2 hours we have got.